

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
LUFKIN DIVISION

MICHAEL O. COLEMAN, #498392	§	
VS.	§	CIVIL ACTION NO. 9:04cv179
POLUNSKY UNIT FIELD FORCE, ET AL.	§	

ORDER OF DISMISSAL

Plaintiff Michael O. Coleman, an inmate confined in the Texas prison system, proceeding *pro se* and *in forma pauperis*, filed this civil rights lawsuit pursuant to 42 U.S.C. § 1983. The complaint was referred to United States Magistrate Judge Harry W. McKee, who issued a Report and Recommendation concluding that the cause of action should be dismissed pursuant to 28 U.S.C. § 1915A(b)(1). The plaintiff has filed objections to the Report and Recommendation.

The Report of the Magistrate Judge, which contains proposed findings of fact and recommendations for the disposition of such action, has been presented for consideration, and having made a *de novo* review of the objections raised by the plaintiff, the Court is of the opinion that the findings and conclusions of the Magistrate Judge are correct, and the objections by the plaintiff are without merit.

The plaintiff alleged that the defendants were deliberately indifferent to his serious medical needs regarding diabetes. The facts as alleged and developed by a *Martinez* Report¹ reveal that the

¹*Martinez v. Aaron*, 570 F.2d 317 (10th Cir. 1978) (cited with approval by the Fifth Circuit in *Cay v. Estelle*, 789 F.2d 318 (5th Cir. 1986)).

plaintiff was provided extensive medical care for his diabetes and that his job assignment was consistent with his medical restrictions. The plaintiff's disagreement with medical personnel does not provide a basis for a potentially meritorious civil rights lawsuit based on deliberate indifference. *Estelle v. Gamble*, 429 U.S. 97, 104-7 (1976); *Norton v. Dimazana*, 122 F.3d 286, 292 (5th Cir. 1997). *See also Houston v. Zeller*, 91 Fed. Appx. 956 (5th Cir. 2004). The plaintiff's objections lack merit. Therefore the Court adopts the findings and conclusions of the Magistrate Judge as the findings and conclusions of the Court. It is accordingly

ORDERED that the complaint is **DISMISSED** with prejudice pursuant to 28 U.S.C. § 1915A(b)(1). It is further

ORDERED that all motions by either party not previously ruled on are hereby **DENIED**.

So **ORDERED** and **SIGNED** this **12** day of **July, 2005**.

A handwritten signature in black ink, appearing to read "Ron Clark", is written above a horizontal line.

Ron Clark, United States District Judge